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Attorneys for Defendants
THE GEO GROUP, INC., CITY OF ADELANTO,
CAMPOS, and DIAZ

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

OMAR ARNOLDO RIVERA
MARTINEZ; ISAAC ANTONIO
LOPEZ CASTILLO; JOSUE
VLADIMIR CORTEZ DIAZ; JOSUE
MATEO LEMUS CAMPOS;
MARVIN JOSUE GRANDE
RODRIGUEZ; ALEXANDER
ANTONIO BURGOS MEJIA; LUIS
PEÑA GARCIA; JULIO CESAR
BARAHONA CORNEJO, as
individuals,

Plaintiffs,

v.

THE GEO GROUP, Inc., a Florida
corporation; the CITY OF
ADELANTO, a municipal entity; GEO
LIEUTENANT DIAZ, sued in her
individual capacity; GEO
SERGEANT CAMPOS, sued in his
individual capacity; SARAH JONES,
sued in her individual capacity; THE
UNITED STATES OF AMERICA;
CORRECT CARE SOLUTIONS,
INC.; and DOES 1-10, individuals,

Defendants.

Case No. 5:18-cv-01125-SP

**DEFENDANT'S NOTICE OF
MOTION AND MOTION TO
BIFURCATE PUNITIVES;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT**

*[Proposed Order filed concurrently
herewith]*

Pretrial Conference

Date: January 21, 2020

Time: 10:00 a.m.

Ctrm.: 3

Trial date: February 3, 2020

Time: 9:00 a.m.

Judge: Honorable Sheri Pym

TO PLAINTIFFS, AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on January 21, 2019, at 10:00 a.m., in

1 Courtroom 3 of the above-captioned Court, Defendants THE GEO GROUP, INC.,
2 CITY OF ADELANTO, CAMPOS, and DIAZ will and hereby do move this Court
3 for an Order to bifurcate the punitive damages portion of this trial.

4 The Motion is based upon the Notice of Motion, the attached Memorandum
5 of Points and Authorities, the pleadings, records and files in this action, and such
6 other matters as may properly come before the Court.

7 This motion is made following a meet and confer session with Plaintiff's
8 counsel on December 13, 2019, and continuing thereafter. Plaintiff's counsel
9 agreed to consider the motion but did not commit to bifurcating punitive damages.

10 Dated: December 30, 2019

BURKE, WILLIAMS & SORESENSEN, LLP

11
12 By: /s/ Susan E. Coleman

13 Susan E. Coleman
14 Carmen M. Aguado

15 Attorneys for Defendants
16 THE GEO GROUP, INC., CITY OF
17 ADELANTO, CAMPOS, and DIAZ
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This litigation arises from an incident on June 12, 2017, when the eight (8) Plaintiffs refused to return to their beds after breakfast for count, in an effort to hold the dining area hostage in exchange for having their grievances aired. After numerous warnings, and other detainees standing and yelling and raising the specter of escalation, GEO staff eventually used pepper spray on Plaintiffs to separate them and remove them from the area. Plaintiffs are suing for various claims under section 1983 and state law, and they seek compensatory and punitive damages.

By this motion, Defendants seek an order from the Court bifurcating the trial in this matter into two phases: liability/compensatory damages and a second phase regarding punitive damages. By requiring that punitive damages be separated, it avoids the unnecessary presentation and questioning about defendants' personal finances and net worth if unnecessary, which will also help to expedite trial proceedings. Defendants still anticipate that the jury would decide if punitive damages are warranted in the initial phase, but not the amount.

II. LEGAL STANDARD

Rule 42(b) of the Federal Rules of Civil Procedure provides, in relevant part: "For convenience, to avoid prejudice, or to expedite and economize, the court may order a separate trial of one or more separate issues, claims, crossclaims, counterclaims, or third-party claims." *See also Arthur Young & Co. v. United States Dist. Court*, 549 F.2d 686, 697 (9th Cir.), *cert. denied*, 434 U.S. 829, 98 S.Ct. 109, 54 L.Ed.2d 88 (1977).

The District Courts have "broad discretion in deciding whether to sever issues for trial and the exercise of that discretion will be set aside only if clearly abused." *Easton v. City of Boulder, Colo.*, 776 F.2d 1441, 1447 (10th Cir. 1985); see also, *Exxon v. Sofec, Inc.*, 54 F.3d 570, 575 (9th Cir. 1985); see also, *Davis v.*

1 *Freels*, 583 F.2d 337, 343 (7th Cir. 1978) [excessive force case]. The factors to
 2 consider are: (1) prejudice to the parties; (2) possible confusion of jurors; and (3)
 3 resulting convenience and economy. *In re Beverly Hills Fire Litig.*, 695 F.2d 207,
 4 216 (6th Cir. 1982). “Bifurcation is particularly appropriate when resolution of a
 5 single claim or issue could be dispositive of the entire case.” *Drennan v. Maryland*
 6 *Casualty Co.*, 366 F.Supp. 2d 1002, 1007 (D.Nev. 2005) (citing *O’Malley v. United*
 7 *States Fidelity and Guarantee Co.*, 776 F.2d 494, 501 (5th Cir. 1985).

8 **III. BIFURCATION OF PUNITIVES IS APPROPRIATE IN THIS CASE**

9 Defendants requests that this Court separate the punitive damages phase of
 10 the trial. Bifurcation is appropriate in this case for several reasons.

11 First, there would be no prejudice to Plaintiffs by bifurcating the punitive
 12 damages portion of this case. Plaintiffs will have a full opportunity to present their
 13 case to the jury concerning their theory and evidence regarding both liability and
 14 physical and emotional damages. Conversely, there is potential prejudice and
 15 invasion of privacy to Defendants if this case is not bifurcated. Admitting evidence
 16 pertaining to Defendants’ personal finances and net worth would be upsetting and
 17 embarrassing to defendants, and might confuse the jury in its consideration of
 18 liability.

19 Second, bifurcation of the punitive damages evidence and argument would
 20 allow a logical presentation of the evidence and avoid potential jury confusion. It
 21 would also save time and money which might not need to be expended. The
 22 presentation of evidence regarding defendant’s finances and net worth may be
 23 unnecessary and would be intrusive. If there is no finding of liability, the parties
 24 will not have to present evidence or arguments regarding these issues to the jury.

25 Therefore, an order separating punitive damages will promote efficiency,
 26 prevent any potential prejudicial impact and confusion to the jury, and will expedite
 27 presentation of evidence and the jury’s decision on Plaintiffs’ claim.

28 ///

1 **IV. CONCLUSION**

2 Accordingly, for the above stated reasons, Defendants THE GEO GROUP,
3 INC., CITY OF ADELANTO, CAMPOS, and DIAZ, hereby request that this Court
4 bifurcate the punitive damages phase of this case.

5 Dated: December 30, 2019

BURKE, WILLIAMS & SORENSEN, LLP

7 By: /s/ Susan E. Coleman

8 Susan E. Coleman
Carmen M. Aguado

9 Attorneys for Defendants
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